

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

SEP 30 1997

In the Matter of)	
)	
Amendment of the Commission's Rules)	PR Docket No. 92-257
Concerning Maritime Communications)	RM-7956, 8031, 8352

Reply Comments of the
Industrial Telecommunications Association
and the
Council of Independent Communications Suppliers

The Industrial Telecommunications Association, Inc. ("ITA"), and the Council of Independent Communications Suppliers ("CICS"), pursuant to the Federal Communications Commission's *Second Further Notice of Proposed Rule Making* in the above-referenced matter, hereby respectfully submits these Reply Comments.¹

I. Background

1. On June 26, 1997, the Commission released its *Second Further Notice of Proposed Rule Making* in the "maritime proceeding." On September 15, 1997, ITA/CICS filed comments on the Commission's proposal to license VHF public coast spectrum by geographic areas that encompass the entire United States. ITA/CICS were primarily concerned that the adoption of such a licensing system would precluded the continued inter-service sharing of maritime frequencies by Industrial/Land Transportation ("ILT") licensees.² ITA/CICS also urged the Commission to lift the

¹ *Second Further Notice of Proposed Rule Making* (FCC 97-217), PR Docket No. 92-257, adopted June 17, 1997, released June 26, 1997, (hereinafter "*Second Notice*").

² ITA/CICS Comments at 4-6 (ITA/CICS noted that the inter-service sharing of these frequencies was introduced in response to an ITA/CICS petition for rule making that was completed just last year).

freeze imposed on I/LT applications filed under the Commission's inter-service sharing rules.³ Now, ITA/CICS submits these "Reply Comments" in order to present its views and insights to the Commission regarding the several comments filed in this proceeding.

2. ITA/CICS oppose certain arguments put forth by WJG MariTEL, and the State of Montana, and support the comments submitted by Mobile Marine, Inc., and UTC. ITA/CICS also point out that certain statements in the comments of the United States Coast Guard support ITA/CICS' assertion that Public Safety entities are inappropriate candidates for the inter-service sharing of maritime frequencies.

II. Reply Comments

a. Comments of WJ MariTEL Corporation ("Maritel")

3. Maritel is a public coast station service provider and supports the Commission's plan to geographically license and auction VHF marine frequencies. Maritel argues that public coast stations should be licensed on the same basis as other CMRS providers.⁴ Maritel also directs comments to the inter-service sharing of maritime frequencies by I/LT licensees. Maritel argues that the continued use of maritime frequencies by I/LT licensees will reduce the value of any auctioned geographic areas, and accordingly asks the Commission to "freeze" the acceptance of all PLMR applications for maritime frequencies.⁵

4. Insofar as the core purpose of the maritime communications service is the promotion of

³ *Id* at 11.

⁴ Maritel comments at 2.

⁵ *Id* at 6 (ITA/CICS notes that the Commission implemented such a freeze with the adoption of the *Second Further Notice of Proposed Rule Making*, on June 17, 1997).

commerce and safety at sea, there is nothing in the Maritel comments that suggests that the continued licensing of I/LT systems in areas away from navigable waters would interfere with existing or proposed public coast stations.

5. Maritel concedes that the paramount function of public coast stations is service to the coastline, and urges the Commission to adopt construction requirements that are related to the service of waterways.⁶ Maritel states that “licensees should not be permitted to satisfy coverage requirements by serving land areas.”⁷ Maritel proposes that geographic area licensees receive a ten-year construction period with ever increasing coastline coverage requirements.⁸ When viewed in the context of its own ten-year construction proposal, Maritel’s argument for the exclusion of PLMR licensees in areas away from navigable waters amounts to nothing more than a request to warehouse spectrum.

6. The Commission has stated that “because these PLMR systems operate far from waterways . . . their continued operation does not present a barrier to the development of coastal systems.”⁹ Nothing in the Maritel comments contradicts this statement. If the Commission acts in accordance with the Maritel comments, vast amounts of spectrum that could be efficiently used by I/LT licensees will be warehoused and unused for up to ten-years while geographic licensees construct their coastal systems. This would be a terribly inefficient use of scarce radio spectrum, and contrary to the Commission’s stated policy objectives.

⁶ *Id* at 10.

⁷ *Id.*

⁸ *Id.*

⁹ *Second Notice*, at ¶ 82.

b. Comments of The State of Montana (“Montana”)

7. Montana, in its comments, requests that the Commission’s inter-service sharing rules be expanded to grant public safety entities access to the maritime VHF channels.¹⁰ Montana states that it has implemented a State-wide effort to migrate public safety systems to VHF bands, and that further development of the state wide system requires access to additional spectrum.¹¹ Montana further states that it has been unable to take advantage of the Commission’s “refarming” rules because it has been unable to clear existing frequencies in order to implement new narrowband technologies.¹²

8. In their own comments, ITA/CICS urged the Commission to proceed with caution as it contemplated the expansion of the inter-service sharing rules to include public safety entities.¹³ From ITA’s and CICS’ perspective, attempting to divide the nine available channels among several land mobile entities would be imprudent. ITA/CICS also pointed out in their comments that the needs of the public safety community are largely in urban areas while the availability of marine channels is largely in rural areas.¹⁴ This reality is borne out by statements in Montana’s comments.

9. Montana states that it needs access to the Maritime channels in order to complete its planned state-wide inter-operable system.¹⁵ However, absent in Montana’s comments is any evidence of congestion in other public safety bands. In fact, according to ITA’s database, there is abundant

¹⁰ Montana comments at 1.

¹¹ *Id* at 3.

¹² *Id.*

¹³ ITA comments at 8.

¹⁴ *Id.*

¹⁵ Montana comments at 3.

spectrum available in Montana for public safety systems in the 800 MHz bands. Any congestion that Montana is experiencing is not a function of the unavailability of spectrum, but of the unavailability of spectrum in the bands in which Montana would prefer to operate. ITA/CICS suggests that the Commission should not alter its spectrum allocation rules based on entities' *preference*, but rather on demonstrable need.

10. ITA/CICS also believe that Montana could avail itself of certain spectrum efficiencies that would dramatically reduce its need for additional VHF channels. Montana claims that it cannot take advantage of the new trunked technology radio systems because it would need to relocate existing systems in order to obtain clear channels for trunking.¹⁶ It has been ITA's and CICS' experience, however, that VHF channels may be effectively and efficiently "swapped" in order to clear necessary channels to implement trunked systems. This should certainly be the case where both parties are pursuing the common goal of implementing an inter-operable system.

11. ITA/CICS believe that it is not in the public interest for the Commission to alter its rules for the benefit of Montana, when Montana has not yet done all that it can to ease its own congestion problems. Because Montana can still avail itself of narrowband technologies, and because there appears to be abundant spectrum available for public safety entities in the 800 MHz band, ITA/CICS urge the Commission to deny Montana's request for access to the VHF public coast station channels.

c. Comments of the United States Coast Guard ("Coast Guard")

12. While generally supportive of the proposal to expand inter-service sharing of the maritime channels to public safety entities, the Coast Guard validates the ITA/CICS position that the needs of

¹⁶ *Id.*

the public safety community are in areas where these frequencies would be unavailable.

13. The Coast Guard states that the inter-service sharing of public coast channels within 150 miles of navigable waterways would be inappropriate.¹⁷ The Coast Guard also notes that of the 25 largest U.S. cities, 19 are close to navigable waters, and so: “This public correspondence band would not be available for public safety use in areas where they are most needed.”¹⁸

14. These statements support ITA/CICS’ comments that public safety has not demonstrated a need for spectrum in the areas where the public coast stations channels would be available. From ITA’s and CICS’ perspective an expansion of the inter-service sharing of the limited maritime channels is unnecessary.

d. Comments of Mobile Marine Radio, Inc. (“MMR”)

15. The general thrust of MMR’s comments is that the Commission’s proposal ignores the underlying service characteristics of the maritime services in such a way as to convert the maritime operating frequencies into a “pure financial play” that will ultimately jeopardize the entire maritime service.¹⁹ While ITA/CICS do not comment on the impact these proposed rules will have on the maritime services, we strongly support MMR’s comments opposing the Commission’s proposed geographic service areas.

16. MMR states that the adoption of the proposed geographic service areas would convert the maritime service into a “generic mobile service, albeit frequency constrained, and one which necessarily must forsake the maritime user in search of the high volume land mobile user necessary

¹⁷ Coast Guard comments at 2.

¹⁸ *Id.*

¹⁹ MMR comments at 6.

to compete with . . . other commercial mobile radio services.”²⁰ MMR urges the Commission to adopt, as an alternative, geographic service areas defined by the 72-mile band extending from navigable waterways.²¹ ITA/CICS supports this proposal.

17. Nearly all of the comments in this proceeding state that the primary purpose of the maritime services must be the provision of service to the waterways, and marine traffic. That being the case, there is no need for the Commission to assign the maritime channels in areas far from navigable waters. MMR’s proposal would assure that an efficient maritime service could be promoted, but would avoid the inefficient warehousing of spectrum that results from the Commission’s proposal. ITA/CICS urge the Commission to adopt the MMR proposal.

e. Comments of UTC

18. The comments of UTC are substantially similar to those filed by ITA/CICS. UTC states that the Commission’s proposed geographic service areas are far too broad for the efficient licensing of the “nation’s coastline,” and that incumbent I/LT licensees operating on the maritime bands should be afforded protection from interference from new licensees based on the established rules for land based VHF systems.²² Insofar as these are the same concerns expressed by ITA/CICS, we reiterate our position by expressing our support for the UTC comments.

III. Conclusion

19. ITA/CICS believe that the comments submitted in response to the *Second Notice* in this proceeding support the arguments expressed by ITA/CICS. Specifically, that the continued licensing

²⁰ *Id* at 4.

²¹ *Id* at 8.

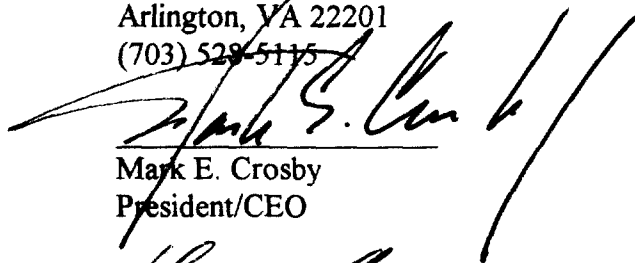
²² UTC comments at 3-4.

of I/LT systems on maritime frequencies, pursuant to the Commission's existing inter-service sharing rules, poses no obstacle to the efficient licensing of the nation's navigable waterways, and that the result of the Commission's proposal will be the inefficient warehousing of VHF spectrum in landlocked areas. Accordingly, ITA/CICS urge the Commission to adopt geographic areas that accurately reflect the nation's waterways, and to immediately lift the freeze on I/LT radio service applications filed pursuant to the Commission's inter-service sharing rules.

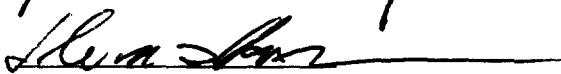
Respectfully Submitted,

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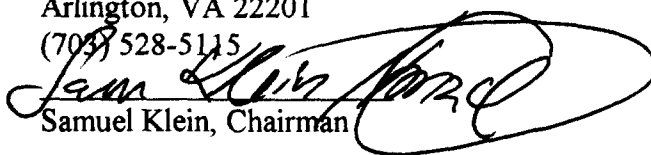
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Samuel Klein, Chairman

Date: September 30, 1997

Certificate of Service

I, Barabara Leverman, the Executive Assistant to the President and CEO of the Industrial Telecommunications Association, Inc. do hereby certify that a copy of the foregoing "Reply Comments" has been served this 30th day of September, 1997, by mailing U.S. First-Class, postage prepaid to the following:

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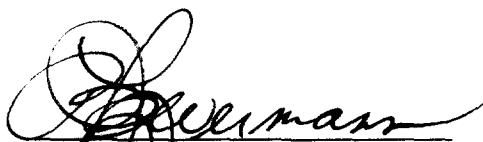
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